

Chapter 17.80

NONCONFORMING LOTS, STRUCTURES AND USES

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17.80.010 Intent.

Within the zoning districts established by this title or amendments that may be adopted later, there exist: (1) lots; (2) structures; (3) uses of land and structures; (4) characteristics of use which were lawful before this title was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this title or future amendment. It is the intent of this title to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this title that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this title to be incompatible with permitted uses in the zoning districts involved. A non-conforming use of structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this title by attachment on a building or premises of additional signs intended to

be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the zoning district involved.

To avoid undue hardship, nothing in this title shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this title and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently. (Ord. 386 § 1501, 2002)

**17.80.020 Nonconforming lots of
records.**

In any zoning district in which single-family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this title, notwithstanding limitations imposed by other provisions of this title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area of width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the zoning regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the planning commission.

If two or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this title, and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this title, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this title. (Ord. 386 § 1502, 2002)

17.80.030 Nonconforming uses of land or land with minor structures only.

Where, at the time of passage of this title, lawful use of land exists which would not be permitted by the zoning regulations imposed by this title, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this title;
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this title;
- C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this title for the zoning district in which such land is located;
- D. No additional structure not conforming to the requirements of this title shall be erected in connection with such nonconforming use of land. (Ord. 386 § 1503, 2002)

17.80.040 Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Should such nonconforming structure or nonconforming portion of structure destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with provisions of this title.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved. (Ord. 386 § 1504, 2002)

17.80.050 Nonconforming uses of structures or of structures and premises in combination.

If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this title, that would not be allowed in the zoning districts under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located;
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such building;
- C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may, as a permitted conditional use, be changed to another nonconforming use provided that the planning commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zoning district than the existing non-conforming use. In permitting such change, the planning commission may require appropriate conditions and safeguards in accord with the provision of this title;
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district, and the nonconforming use may not thereafter be resumed;
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three-year period, except when government action impedes access to the premises, the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located;
- F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction. (Ord. 386 § 1505, 2002)

17.80.060 Repairs and maintenance.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or

on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty-five (25) percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided, that the cubic content existing when it became non-conforming shall not be increased.

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Ord. 386 § 1506, 2002)

17.80.070 Uses under permitted

conditional uses--Provisions not nonconforming uses.

Any use which is permitted as a permitted conditional use in a zoning district under the terms of this title, other than a change through planning commission action from a non-conforming use to another use not generally permitted in the zoning district, shall not be deemed a nonconforming use in such zoning district, but shall, without action, be considered a conforming use. (Ord. 386 § 1507, 2002)